

Federal Reserve System

§ 240.9

(e)(1) of this section if the following requirements are met:

(i) The banking institution placing and directing the allocation of an order eligible for post-execution allocation has been granted written investment discretion with regard to participating customer accounts and makes the following information available to customers upon request:

(A) The general nature of the post-execution allocation methodology the banking institution will use;

(B) Whether the banking institution has any interest in accounts which may be included with customer accounts in bunched orders eligible for post-execution allocation; and

(C) Summary or composite data sufficient for that customer to compare the customer's results with those of other comparable customers and, if applicable, any account in which the banking institution has an interest.

(ii) Post-execution allocations are made as soon as practicable after the entire transaction is executed;

(iii) Post-execution allocations are fair and equitable, with no account or group of accounts receiving consistently favorable or unfavorable treatment; and

(iv) The post-execution allocation methodology is sufficiently objective and specific to permit the Board to verify fairness of the allocations using that methodology.

(f) *Record of monthly statements and confirmations.* A banking institution shall retain a copy of each monthly statement and confirmation required by § 240.10.

(g) *Form of record and manner of maintenance.* The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information. A banking institution must create and maintain audio recordings of oral orders and oral offset instructions. Record maintenance may include the use of automated or electronic records provided that the records are easily retrievable, and readily available for inspection.

(h) *Length of maintenance.* A banking institution shall keep each record required by this section for at least five

years from the date the record is created.

§ 240.8 Capital requirements.

(a) *Capital required for a state member bank.* A banking institution defined in section 240.2(b)(1) offering or entering into retail forex transactions must be well-capitalized as defined in section 208.43 of Regulation H (12 CFR 208.43).

(b) *Capital required for an uninsured state-licensed branch of a foreign bank.* A banking institution defined in § 240.2(b)(2) offering or entering into retail forex transactions must be well-capitalized under the capital rules made applicable to it pursuant to § 225.2(r)(3) of Regulation Y (12 CFR 225.2(r)(3)).

(c) *Capital required for financial holding companies and bank holding companies.* A banking institution defined in § 240.2(b)(3) or (4) offering or entering into retail forex transactions must be well-capitalized as defined in § 225.2(r) of Regulation Y (12 CFR 225.2(r)).

(d) *Capital required for savings and loan holding companies.* A banking institution defined in § 240.2(b)(5) offering or entering into retail forex transactions must be well-capitalized as defined in § 238.2(s) of Regulation LL (12 CFR 238.2(s)).

(e) *Capital required for an agreement corporation or Edge Act corporation.* A banking institution defined in § 240.2(b)(6) or (7) offering or entering into retail forex transactions must maintain capital in compliance with the capital adequacy guidelines that are made applicable to an Edge corporation engaged in banking pursuant to § 211.12 (c)(2) of Regulation K (12 CFR 211.12(c)(2)).

§ 240.9 Margin requirements

(a) *Margin required.* A banking institution engaging, or offering to engage, in retail forex transactions must collect from each retail forex customer an amount of margin not less than:

(1) Two percent of the notional value of the retail forex transaction for major currency pairs and 5 percent of the notional value of the retail forex transaction for all other currency pairs;

(2) For short options, 2 percent for major currency pairs and 5 percent for